

116TH CONGRESS  
1ST SESSION

# H. R. 727

To end the use of corporal punishment in schools, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 23, 2019

Mr. HASTINGS (for himself, Mr. COHEN, Mr. DESAULNIER, Ms. NORTON, Ms. PINGREE, and Mr. RYAN) introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To end the use of corporal punishment in schools, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ending Corporal Pun-  
5 ishment in Schools Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Behavioral interventions for children must  
9 promote the right of all children to be treated with

1 dignity. All children have the right to be free from  
2 any corporal punishment.

3 (2) Safe, effective, evidence-based strategies are  
4 available to support children who display challenging  
5 behaviors in school settings.

6 (3) School personnel have the right to work in  
7 a safe environment and should be provided training  
8 and support to prevent injury and trauma to them-  
9 selves and others.

10 (4) According to the Department of Education's  
11 Technical Assistance Center on School-Wide Positive  
12 Behavior Interventions and Support, outcomes asso-  
13 ciated with school-wide positive behavior support are:  
14 decreased office discipline referrals, increased in-  
15 structional time, decreased administrator time spent  
16 on discipline issues, efficient and effective use of  
17 scarce resources, and increased perception of school  
18 safety and sustainability through a team approach.

19 (5) Every 30 seconds during the school year, a  
20 public school student is corporally punished.

21 (6) Nineteen States continue to permit corporal  
22 punishment in public schools.

23 (7) According to Department of Education sta-  
24 tistics, each year in the United States, hundreds of  
25 thousands of school children are subjected to cor-

1 corporal punishment in public schools. School corporal  
2 punishment is usually executed in the form of “pad-  
3 dling”, or striking students with a wooden paddle on  
4 their buttocks or legs, which can result in abrasions,  
5 bruising, severe muscle injury, hematomas, whiplash  
6 damage, life-threatening hemorrhages, and other  
7 medical complications that may require hospitaliza-  
8 tion.

9 (8) Gross racial disparity exists in the execution  
10 of corporal punishment of public school children, and  
11 African-American schoolchildren are disproportion-  
12 ately corporally punished. The most recent available  
13 statistics show that African-American students make  
14 up 18 percent of the national student population,  
15 but comprise 40 percent of all students subjected to  
16 physical punishment at school. Black children are  
17 nearly two-and-a-half times more likely to be cor-  
18 porally punished than White children, and nearly  
19 eight times more likely to be corporally punished  
20 than Hispanic children.

21 **SEC. 3. PURPOSES.**

22 The purposes of this Act are to—

23 (1) eliminate the use of corporal punishment in  
24 schools;

1           (2) ensure the safety of all students and school  
2           personnel in schools and promote a positive school  
3           culture and climate; and

4           (3) assist States, local educational agencies,  
5           and schools in identifying and implementing effective  
6           evidence-based models to prevent and reduce—

7                   (A) corporal punishment in schools; and

8                   (B) aversive behavior interventions that  
9           compromise health.

10 **SEC. 4. PROHIBITION AGAINST CORPORAL PUNISHMENT.**

11           Subpart 4 of part C of the General Education Provi-  
12           sions Act (20 U.S.C. 1232f et seq.) is amended by adding  
13           at the end the following:

14 **“SEC. 448. PROHIBITION AGAINST CORPORAL PUNISH-**  
15 **MENT.**

16           “(a) GENERAL PROHIBITION.—No funds shall be  
17           made available under any applicable program to any edu-  
18           cational agency or institution, including a local edu-  
19           cational agency or State educational agency, that has a  
20           policy or practice which allows school personnel to inflict  
21           corporal punishment upon a student—

22                   “(1) as a form of punishment; or

23                   “(2) for the purpose of modifying undesirable  
24           behavior.

25           “(b) LOCAL EDUCATIONAL AGENCIES.—

1           “(1) IN GENERAL.—In the case of an applicable  
2           program under which a local educational agency may  
3           only receive funds through a State educational agen-  
4           cy that is prohibited under subsection (a) from re-  
5           ceiving funds under any applicable program, a local  
6           educational agency that is not prohibited under sub-  
7           section (a) from receiving such funds may apply di-  
8           rectly to the Secretary to receive funds under the  
9           program.

10           “(2) CERTIFICATION.—Each local educational  
11           agency applying directly to the Secretary under  
12           paragraph (1) shall certify in such application that  
13           the agency is not prohibited under subsection (a)  
14           from receiving funds under any applicable program.

15           “(c) RULE OF CONSTRUCTION.—Nothing in this sec-  
16           tion shall be construed to preclude school personnel from  
17           using, within the scope of employment, reasonable re-  
18           straint to the lightest possible degree upon a student, if—

19           “(1) the student’s behavior poses an imminent  
20           danger of physical injury to the student, school per-  
21           sonnel, or others;

22           “(2) less restrictive interventions would be inef-  
23           fective in stopping such imminent danger of physical  
24           injury; and

1           “(3) the reasonable restraint ends immediately  
2 upon the cessation of the conditions described in  
3 paragraphs (1) and (2).

4           “(d) DEFINITIONS.—For purposes of this section—

5           “(1) the term ‘corporal punishment’ has the  
6 meaning given such term in section 12 of the End-  
7 ing Corporal Punishment in Schools Act of 2019;

8           “(2) the term ‘educational agency or institution’  
9 means any public or private agency or institution  
10 which is the recipient, or serves students who are re-  
11 cipients of, funds under any applicable program;

12           “(3) the terms ‘local educational agency’ and  
13 ‘State educational agency’ have the meanings given  
14 such terms in section 8101 of the Elementary and  
15 Secondary Education Act of 1965;

16           “(4) the term ‘school personnel’ has the mean-  
17 ing given such term in section 12 of the Ending Cor-  
18 poral Punishment in Schools Act of 2019; and

19           “(5) the term ‘student’ includes any person who  
20 is in attendance at an educational agency or institu-  
21 tion.”.

22 **SEC. 5. STATE PLAN AND ENFORCEMENT.**

23           (a) STATE PLAN.—Not later than 18 months after  
24 the date of enactment of this Act and every third year

1 thereafter, each State educational agency shall submit to  
2 the Secretary a State plan that provides—

3 (1) assurances to the Secretary that the State  
4 has in effect policies and procedures that eliminate  
5 the use of corporal punishment in schools;

6 (2) a description of the State’s policies and pro-  
7 cedures; and

8 (3) a description of the State plans to ensure  
9 school personnel and parents, including private  
10 school personnel and parents, are aware of the  
11 State’s policies and procedures.

12 (b) ENFORCEMENT.—

13 (1) IN GENERAL.—

14 (A) USE OF REMEDIES.—If a State edu-  
15 cational agency fails to comply with subsection  
16 (a), the Secretary shall—

17 (i) withhold, in whole or in part, fur-  
18 ther payments under an applicable pro-  
19 gram (as such term is defined in section  
20 400(e) of the General Education Provi-  
21 sions Act (20 U.S.C. 1221)) in accordance  
22 with section 455 of such Act (20 U.S.C.  
23 1234d);

24 (ii) enter into a compliance agreement  
25 in accordance with section 457 of the Gen-

1           eral Education Provisions Act (20 U.S.C.  
2           1234f); or

3           (iii) issue a complaint to compel com-  
4           pliance of the State educational agency  
5           through a cease and desist order, in the  
6           same manner the Secretary is authorized  
7           to take such action under section 456 of  
8           the General Education Provisions Act (20  
9           U.S.C. 1234e).

10           (B) CESSATION OF WITHHOLDING OF  
11           FUNDS.—Whenever the Secretary determines  
12           (whether by certification or other appropriate  
13           evidence) that a State educational agency that  
14           is subject to the withholding of payments under  
15           subparagraph (A)(i) has cured the failure pro-  
16           viding the basis for the withholding of pay-  
17           ments, the Secretary shall cease the withholding  
18           of payments with respect to the State edu-  
19           cational agency under such subparagraph.

20           (2) RULE OF CONSTRUCTION.—Nothing in this  
21           subsection shall be construed to limit the Secretary’s  
22           authority under the General Education Provisions  
23           Act (20 U.S.C. 1221 et seq.).

24           (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
25           tion shall be construed to preclude school personnel from

1 using, within the scope of employment, reasonable re-  
2 straint to the lightest possible degree upon a student, if—

3           (1) the student’s behavior poses an imminent  
4 danger of physical injury to the student, school per-  
5 sonnel, or others;

6           (2) less restrictive interventions would be inef-  
7 fective in stopping such imminent danger of physical  
8 injury; and

9           (3) the reasonable restraint ends immediately  
10 upon the cessation of the conditions described in  
11 paragraphs (1) and (2).

12 **SEC. 6. GRANT AUTHORITY.**

13       (a) **IN GENERAL.**—From the amount appropriated  
14 under section 11, the Secretary may award grants to State  
15 educational agencies to assist the agencies in improving  
16 school climate and culture by implementing school-wide  
17 positive behavior support approaches.

18       (b) **DURATION OF GRANT.**—A grant under this sec-  
19 tion shall be awarded to a State educational agency for  
20 a 3-year period.

21       (c) **APPLICATION.**—Each State educational agency  
22 desiring a grant under this section shall submit an appli-  
23 cation to the Secretary at such time, in such manner, and  
24 accompanied by such information as the Secretary may

1 require, including information on how the State edu-  
2 cational agency—

3           (1) will develop State training programs on  
4 school-wide positive behavior support approaches,  
5 such as training programs developed with the assist-  
6 ance of the Secretary (acting through the Office of  
7 Special Education Programs Technical Assistance  
8 Center on Positive Behavioral Interventions and  
9 Supports of the Department of Education); and

10           (2) will target resources to schools and local  
11 educational agencies in need of assistance related to  
12 improving school culture and climate through posi-  
13 tive behavior supports.

14 (d) AUTHORITY TO MAKE SUBGRANTS.—

15           (1) IN GENERAL.—A State educational agency  
16 receiving a grant under this section may use such  
17 grant funds to award subgrants, on a competitive  
18 basis, to local educational agencies.

19           (2) APPLICATION.—A local educational agency  
20 desiring to receive a subgrant under this section  
21 shall submit an application to the applicable State  
22 educational agency at such time, in such manner,  
23 and containing such information as the State edu-  
24 cational agency may require.

25 (e) PRIVATE SCHOOL PARTICIPATION.—

1           (1) IN GENERAL.—A local educational agency  
2 receiving subgrant funds under this section shall,  
3 after timely and meaningful consultation with appro-  
4 priate private school officials, ensure that private  
5 school personnel can participate, on an equitable  
6 basis, in activities supported by funds under this  
7 section.

8           (2) PUBLIC CONTROL OF FUNDS.—The control  
9 of funds provided under this section, and title to ma-  
10 terials, equipment, and property purchased with  
11 such funds, shall be in a public agency, and a public  
12 agency shall administer such funds, materials, equip-  
13 ment, and property.

14          (f) REQUIRED ACTIVITIES.—A State educational  
15 agency receiving a grant, or a local educational agency re-  
16 ceiving a subgrant, under this section shall use such grant  
17 or subgrant funds to carry out the following:

18           (1) Developing and implementing high-quality  
19 professional development and training programs,  
20 such as training programs developed with the assist-  
21 ance of the Secretary (acting through the Office of  
22 Special Education Programs Technical Assistance  
23 Center on Positive Behavioral Interventions and  
24 Supports of the Department of Education), to imple-  
25 ment evidence-based systematic approaches to

1 school-wide positive behavior supports, including im-  
2 proving coaching, facilitation, and training capacity  
3 for principals and other administrators, teachers,  
4 specialized instructional support personnel, and  
5 other staff.

6 (2) Providing technical assistance to develop  
7 and implement evidence-based systematic approaches  
8 to school-wide positive behavior supports, including  
9 technical assistance for data-driven decisionmaking  
10 related to behavioral supports and interventions in  
11 the classroom and throughout common areas.

12 (3) Researching, evaluating, and disseminating  
13 high-quality evidence-based programs and activities  
14 that implement school-wide positive behavior sup-  
15 ports with fidelity.

16 (4) Supporting other local positive behavior  
17 support implementation activities consistent with  
18 this subsection, including outreach to families and  
19 community agencies and providers, such as mental  
20 health authorities.

21 (g) EVALUATION AND REPORT.—Each State edu-  
22 cational agency receiving a grant under this section shall,  
23 at the end of the 3-year grant period for such grant, pre-  
24 pare and submit to the Secretary, a report that—

1           (1) evaluates the State’s progress toward devel-  
2           oping and implementing evidence-based systematic  
3           approaches to school-wide positive behavior supports;  
4           and

5           (2) includes such information as the Secretary  
6           may require.

7           (h) DEPARTMENT OF THE INTERIOR.—From the  
8           amount appropriated under section 11, the Secretary may  
9           allocate funds to the Secretary of the Interior for activities  
10          under this section with respect to schools operated or  
11          funded by the Department of the Interior, under such  
12          terms as the Secretary of Education may prescribe.

13   **SEC. 7. NATIONAL ASSESSMENT.**

14          (a) NATIONAL ASSESSMENT.—The Secretary shall  
15          carry out a national assessment to—

16               (1) determine compliance with the requirements  
17               of this Act; and

18               (2) identify best practices with respect to pro-  
19               fessional development and training programs carried  
20               out under section 6, which shall include identifying  
21               evidence-based school personnel training models with  
22               demonstrated success (including models that empha-  
23               size positive behavior supports and de-escalation  
24               techniques over physical intervention).

1 (b) REPORT.—The Secretary shall submit to the  
2 Committee on Education and Labor of the House of Rep-  
3 resentatives and the Committee on Health, Education,  
4 Labor, and Pensions of the Senate—

5 (1) an interim report that summarizes the pre-  
6 liminary findings of the assessment described in sub-  
7 section (a) not later than 3 years after the date of  
8 enactment of this Act; and

9 (2) a final report of the findings of the assess-  
10 ment not later than 5 years after the date of the en-  
11 actment of this Act.

12 **SEC. 8. PROTECTION AND ADVOCACY SYSTEMS.**

13 Protection and Advocacy Systems shall have the au-  
14 thority provided under section 143 of the Developmental  
15 Disabilities Assistance and Bill of Rights Act of 2000 (42  
16 U.S.C. 15043) to investigate, monitor, and enforce protec-  
17 tions provided for students under this Act and the amend-  
18 ments made by this Act.

19 **SEC. 9. LIMITATION OF AUTHORITY.**

20 (a) IN GENERAL.—Nothing in this Act shall be con-  
21 strued to restrict or limit, or allow the Secretary to restrict  
22 or limit, any other rights or remedies otherwise available  
23 to students or parents under Federal, State, or local law  
24 or regulation.

25 (b) APPLICABILITY.—

1           (1) PRIVATE SCHOOLS.—Nothing in this Act  
2 shall be construed to affect any private school that  
3 does not receive, or does not serve students who re-  
4 ceive, support in any form from any program sup-  
5 ported, in whole or in part, with funds appropriated  
6 to the Department of Education.

7           (2) HOME SCHOOLS.—Nothing in this Act shall  
8 be construed to—

9                   (A) affect a home school, whether or not a  
10 home school is treated as a private school or  
11 home school under State law; or

12                   (B) consider parents who are schooling a  
13 child at home as school personnel.

14 **SEC. 10. RULE OF CONSTRUCTION ON DATA COLLECTION.**

15           Nothing in this Act shall be construed to affect the  
16 collection of information or data with respect to corporal  
17 punishment authorized under the statutes and regulations  
18 implementing title VI of the Civil Rights Act of 1964 (42  
19 U.S.C. 2000d et seq.), title IX of the Education Amend-  
20 ments of 1972 (20 U.S.C. 1681 et seq.), section 504 of  
21 the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.),  
22 or the Department of Education Organization Act (20  
23 U.S.C. 3401 et seq.).

1 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

2       There are authorized to be appropriated such sums  
3 as may be necessary to carry out this Act for fiscal year  
4 2019 and each of the 4 succeeding fiscal years.

5 **SEC. 12. DEFINITIONS.**

6       In this Act:

7           (1) CORPORAL PUNISHMENT.—The term “cor-  
8 poral punishment” means paddling, spanking, or  
9 other forms of physical punishment, however light,  
10 imposed upon a student.

11           (2) EDUCATIONAL SERVICE AGENCY.—The  
12 term “educational service agency” has the meaning  
13 given such term in section 8101(18) of the Elemen-  
14 tary and Secondary Education Act of 1965 (20  
15 U.S.C. 7801(18)).

16           (3) ELEMENTARY SCHOOL.—The term “elemen-  
17 tary school” has the meaning given the term in sec-  
18 tion 8101(19) of the Elementary and Secondary  
19 Education Act of 1965 (20 U.S.C. 7801(19)).

20           (4) LOCAL EDUCATIONAL AGENCY.—The term  
21 “local educational agency” has the meaning given  
22 the term in section 8101(30) of the Elementary and  
23 Secondary Education Act of 1965 (20 U.S.C.  
24 7801(30)).

25           (5) PARENT.—The term “parent” has the  
26 meaning given the term in section 8101(38) of the

1 Elementary and Secondary Education Act of 1965  
2 (20 U.S.C. 7801(38)).

3 (6) POSITIVE BEHAVIOR SUPPORTS.—The term  
4 “positive behavior supports” means a systematic ap-  
5 proach to embed evidence-based practices and data-  
6 driven decision making to improve school climate  
7 and culture, including a range of systemic and indi-  
8 vidualized strategies to reinforce desired behaviors  
9 and diminish reoccurrence of problem behaviors, in  
10 order to achieve improved academic and social out-  
11 comes and increase learning for all students, includ-  
12 ing those with the most complex and intensive be-  
13 havioral needs.

14 (7) PROTECTION AND ADVOCACY SYSTEM.—The  
15 term “protection and advocacy system” means a  
16 protection and advocacy system established under  
17 section 143 of the Developmental Disabilities Assist-  
18 ance and Bill of Rights Act of 2000 (42 U.S.C.  
19 15043).

20 (8) SCHOOL.—The term “school” means an en-  
21 tity—

22 (A) that—

23 (i) is a public or private—

24 (I) day or residential elementary  
25 school or secondary school; or

1 (II) early childhood, elementary  
2 school, or secondary school program  
3 that is under the jurisdiction of a  
4 school, local educational agency, edu-  
5 cational service agency, or other edu-  
6 cational institution or program; and

7 (ii) receives, or serves students who  
8 receive, support in any form from any pro-  
9 gram supported, in whole or in part, with  
10 funds appropriated to the Department of  
11 Education; or

12 (B) that is a school funded or operated by  
13 the Department of the Interior.

14 (9) SPECIALIZED INSTRUCTIONAL SUPPORT  
15 PERSONNEL.—The term “specialized instructional  
16 support personnel” means school counselors, school  
17 social workers, school nurses, school psychologists,  
18 and other qualified professional personnel involved in  
19 providing assessment, diagnosis, counseling, edu-  
20 cational, health, therapeutic, and other necessary  
21 corrective or supportive services.

22 (10) SECONDARY SCHOOL.—The term “sec-  
23 ondary school” has the meaning given the term in  
24 section 8101(45) of the Elementary and Secondary  
25 Education Act of 1965 (20 U.S.C. 7801(45)).

1           (11) SECRETARY.—The term “Secretary”  
2 means the Secretary of Education.

3           (12) STATE.—The term “State” has the mean-  
4 ing given the term in section 8101 of the Elemen-  
5 tary and Secondary Education Act of 1965 (20  
6 U.S.C. 7801).

7           (13) STATE EDUCATIONAL AGENCY.—The term  
8 “State educational agency” has the meaning given  
9 the term in section 8101(48) of the Elementary and  
10 Secondary Education Act of 1965 (20 U.S.C.  
11 7801(48)).

12           (14) STUDENT.—The term “student” means a  
13 student enrolled in a school defined in paragraph  
14 (8).

15 **SEC. 13. PRESUMPTION OF CONGRESS RELATING TO COM-**  
16 **PETITIVE PROCEDURES.**

17           (a) PRESUMPTION.—It is the presumption of Con-  
18 gress that grants awarded under this Act will be awarded  
19 using competitive procedures based on merit.

20           (b) REPORT TO CONGRESS.—If grants are awarded  
21 under this Act using procedures other than competitive  
22 procedures, the Secretary shall submit to Congress a re-  
23 port explaining why competitive procedures were not used.

1 **SEC. 14. PROHIBITION ON EARMARKS.**

2       None of the funds appropriated to carry out this Act  
3 may be used for a congressional earmark as defined in  
4 clause 9(e) of rule XXI of the Rules of the House of Rep-  
5 resentatives of the 114th Congress.

○